

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Use of Spectrum Bands Above 24 GHz for)	GN Docket No. 14-177
Mobile Radio Services)	
)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ hereby submits the following comments in response to the *Fourth Further Notice of Proposed Rulemaking* in the above-captioned proceeding, in which the Federal Communications Commission (“FCC” or “Commission”) seeks comment on a plan to reduce encumbrances in the 39 GHz band.²

CCA applauds the Commission’s goal to auction the Upper 37 GHz, 39 GHz, and 47 GHz bands together by the end of 2019.³ CCA also appreciates the Commission’s efforts to make as much contiguous millimeter wave (“mmW”) spectrum available as possible by modifying channel sizes and reconfiguring incumbents in the 39 GHz band. Recognizing the competing interests of clearing valuable spectrum for an auction and making incumbent licensees whole, CCA supports the Commission’s plan for an incentive auction to allow access to valuable

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

² *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, Fourth Further Notice of Proposed Rulemaking, GN Docket No. 14-177, FCC 18-110 (rel. Aug. 3, 2018) (“*Fourth FNPRM*”).

³ *Id.* at 28, Statement of Ajit Pai.

spectrum resources while properly reassigning incumbent 39 GHz license holders.⁴ While CCA agrees with the Commission on the importance of moving incumbents quickly from the band, CCA expresses concern with the Commission's proposed voucher system. CCA urges the Commission to more thoroughly evaluate the potential effects of the proposed voucher exchange process, particularly given that the dominant incumbents already have extensive holdings in these valuable bands. The Commission should identify and address potential flaws in the voucher system, and consider alternative solutions to maximizing spectrum resources, to ensure that mmW spectrum can be made available on a competitive basis and to encourage widespread participation in the auction.

I. THE COMMISSION'S PLAN TO AUCTION THE UPPER 37 GHZ, 39 GHZ, AND 47 GHZ BANDS TOGETHER IS CONSISTENT WITH THE NEED TO EXPEDITE AUCTION OF VALUABLE MMW SPECTRUM

CCA fully supports the Commission's plan to auction the Upper 37 GHz, 39 GHz, and 47 GHz bands at the end of 2019.⁵ As CCA has previously explained, auctioning mmW spectrum bands together maximizes efficiency, expedites deployment of advanced wireless services, and promotes a more competitive market.⁶ As the Commission develops procedures for auctioning these bands together, CCA encourages the Commission to follow smart guiding principles and adopt measures that will 1) rationalize spectrum in these bands; 2) minimize interference; 3) ensure there is enough spectrum available to encourage and foster competition; 4) encourage widespread participation in the auction; and 5) expeditiously deploy this valuable spectrum.

⁴ *Id.* ¶ 2.

⁵ *Id.* at 28, Statement of Ajit Pai.

⁶ *See, e.g.*, Comments of Competitive Carriers Association at 10–11, GN Docket No. 14-177, IB Docket No. 15-256, WT Docket No. 10-112, IB Docket No. 97-95 (filed Jan. 23, 2018).

Making the Upper 37 GHz, 39 GHz, and 47 GHz bands available for deployment as soon as possible through a single auction will help accomplish these important goals.

CCA also urges the Commission to continue to address the additional bands it identified in its *Third FNPRM*, and deploy these bands as quickly as possible through auction.

Specifically, CCA encourages the Commission to consider auctioning the 42 GHz band with the Upper 37 GHz, 39 GHz, and 47 GHz bands, given the “ability to use this band together with the existing 37 GHz and 39 GHz bands.”⁷

II. THE COMMISSION’S PROPOSAL TO CREATE 100 MHZ CHANNELS FOR THE UPPER 37 GHZ, 39 GHZ, AND 47 GHZ BANDS WILL PROMOTE AVAILABILITY OF VALUABLE SPECTRUM AND EFFICIENT AUCTIONING

CCA supports the Commission’s proposal to convert spectrum blocks for the Upper 37 GHz, 39 GHz, and 47 GHz bands into 100 MHz blocks, rather than 200 MHz blocks.⁸ As the Commission has noted—and CCA agrees—this spectrum block size can maximize spectral efficiency and is consistent with 3GPP standards.⁹ CCA likewise agrees with the FCC’s reasoning that revising the band plan for 39 GHz from 200 MHz channels to 100 MHz channels will further assist with the process of repacking incumbents, given that the majority of incumbents already have 100 MHz holdings in non-contiguous 50 MHz license blocks. Making

⁷ *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, Third Report and Order, Memorandum Opinion and Order, and Third Further Notice of Proposed Rulemaking, GN Docket No. 14-177, et al., FCC 18-73 ¶ 52 (rel. Jun. 8, 2018) (rel. Jun. 8, 2018) (“*Third FNPRM*”); *see also* Comments of Competitive Carriers Association at 3–4, GN Docket No. 14-177, et al. (filed Sept 10, 2018).

⁸ *Fourth FNPRM* ¶¶ 9–12.

⁹ *Id.* ¶ 10.

the channels smaller will help simplify reconfiguration of the 39 GHz band, which already suffers from complicated incumbent license holdings.¹⁰

In addition, the Commission correctly points out that aligning the band plans for the Upper 37 GHz band and the 47 GHz band to 100 MHz channels will further enable the FCC to auction these bands with the 39 GHz band, and has the added benefit of creating a more efficient and flexible auction.¹¹ Further, because the Commission has already adopted 100 MHz channels for other Upper Microwave Flexible Use Service bands,¹² and has proposed to do so for the 42 GHz band, CCA encourages the FCC to align the channel sizes for each of these mmW spectrum bands to continue to promote efficient use of these bands.

III. WHILE THE INCENTIVE AUCTION MAY BE AN EFFECTIVE WAY TO MOVE INCUMBENTS, THE PROPOSED VOUCHER SYSTEM POTENTIALLY UNDERMINES THE SUCCESS AND FAIRNESS OF THE AUCTION

CCA further applauds the Commission's efforts to reconfigure the valuable 39 GHz band to enable the Commission "to auction much of the combined 2400 megahertz in the Upper 37 GHz and 39 GHz bands as near-nationwide contiguous spectrum" in a single auction.¹³ Specifically, CCA supports the Commission's proposal for an incentive auction and recognizes the need to make incumbents whole for their existing license holdings. Because incumbent licenses do not align with the proposed band plan of 100 MHz blocks in Partial Economic Areas, it is important for the Commission to develop solutions that will lead to the most efficient use of the 39 GHz band. As the Commission correctly notes, however, the existing framework is

¹⁰ *Id.* ¶ 3; *see also id.* at 29, Statement of Commissioner Michael O'Rielly ("To analogize, this effort is a little like trying to trade Monopoly properties."); *id.* at 30, Statement of Commissioner Brendan Carr ("So what's holding us up? The short answer is that the 39 GHz band is messy.").

¹¹ *Id.* ¶ 11–12.

¹² *Id.*

¹³ *Id.* ¶ 15.

“unlikely to clear all encumbrances from the 39 GHz band.”¹⁴ Accordingly, CCA commends the Commission for exploring additional proposals to reduce encumbrances and help rationalize spectrum holdings in these bands.

At the same time, CCA highlights concern that the Commission’s proposed voucher system will undermine the fairness and effectiveness of the forward auction. Specifically, as the Commission notes,¹⁵ the simultaneous reverse and forward approach of the Commission’s proposed incentive auction—when used with the voucher system—presents a unique challenge because incumbents with vouchers may drive prices up during the bidding to increase the value of their vouchers. Accordingly, CCA supports the Commission’s no withdrawal rule to mitigate against insincere bidding.

Even with the protection of the withdrawal rule, other concerns with the voucher program remain. For instance, allowing incumbent licensees to use their vouchers to exchange their licenses for any spectrum in the Upper 37 GHz, 39 GHz, or 47 GHz bands also has the potential to increase interference in these bands. In reconfiguring incumbent licensees, the Commission should adopt policies that maintain the flexibility needed to align holdings to minimize potential interference across these bands.

Additionally, the voucher system exchange process could allow incumbent licensees to further consolidate valuable spectrum holdings. Much of the existing licenses in these bands are held by AT&T and Verizon as a result of their recent transactions to acquire FiberTower and Straight Path, respectively. These transactions have already given AT&T and Verizon access to

¹⁴ *Id.* ¶ 14.

¹⁵ *Id.* ¶ 25.

valuable mmW spectrum on the secondary marketplace, rather than through an auction.¹⁶ As the Commission prepares to make the Upper 37 GHz, 39 GHz, and 47 GHz bands available through auction, it should guard against allowing AT&T and Verizon to engage in further behavior that will allow them to dominate these mmW bands before the auction has even begun. In particular, CCA cautions that the pre-auction exchange system and the use of vouchers in the auction could result in further concentration of valuable spectrum by AT&T and Verizon as incumbent licensees in these bands. Accordingly, the Commission should explore alternative mechanisms for rationalizing the spectrum, and ensure that any trades, and the corresponding value set for the vouchers, does not inadvertently offer an unfair advantage going into the auction.

The Commission has acknowledged some of the challenges inherent in the voucher system, but has not yet identified ways to fully mitigate the potential harms. CCA encourages the Commission to address these challenges and to fully understand the implications of a voucher system before implementing it into the auction for this valuable spectrum.

IV. CONCLUSION

CCA supports the Commission's plan to auction valuable mmW spectrum in the 37 GHz, 39 GHz, and 47 GHz bands. To ensure the FCC follows smart policies that maximize spectrum availability and market competition, CCA urges the Commission to continue to promote auction of mmW spectrum bands together and encourages the FCC to consider adding other bands such as the 42 GHz band to this proposed auction. Additionally, the Commission's proposal to reduce channel sizes to 100 MHz blocks will further enable the FCC to reconfigure holdings in the 39

¹⁶ See, Letter from Courtney Neville, Policy Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, at 3, GN Docket No. 14-177, IB Docket Nos. 15-256 & 97-95, RM-11664, WT Docket No. 10-112, ULS File Nos. 0007652635, 0007652637, 0007765708, & 0007783428 (filed Oct. 20, 2017).

GHz band and will make auctioning these bands together more efficient. Likewise, CCA supports the Commission's proposal to hold an incentive auction to address 39 GHz incumbent holdings. At the same time, CCA highlights concern that the voucher system could undermine the effectiveness and fairness of the auction for participants that are not incumbents. Accordingly, CCA urges the Commission to address some of these challenges by re-evaluating the proposed voucher system. Together, these tailored policy proposals will efficiently rationalize spectrum, minimize interference, and promote widespread participation in the auction for the benefit of rural and urban consumers alike.

Respectfully submitted,

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